

REMARKS

Claim 1 is amended, and claims 5-7 are withdrawn. Claims 1-12 are pending.

Claim 1 is amended to correct the word “characterised” to be in American English, so no new matter has been added.

In the office action, it is alleged that the application contains claims directed to more than one species which are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- 1) the embodiment as shown in FIG. 2; and
- 2) the embodiment as shown in FIG. 3.

The following claims were deemed to correspond to the above-indicated species:

- 1) the embodiment as shown in FIG. 2: claim 4; and
- 2) the embodiment as shown in FIG. 3: claims 5-7.

In the office action, claims 1-3 and 8-12 were stated to be generic.

The applicants respectfully traverse the restriction, and hereby provisionally elect the embodiment as shown in FIG. 2, and provisionally elect claims 1-4 and 8-12, with claims 1-3 and 8-12 being generic.

Accordingly, claims 5-7 are withdrawn to the provisionally non-elected species shown in FIG. 3.

The applicants respectfully submit that the restriction and the determination of the alleged lack of unity of invention were improper, and so the applicants request that the restriction be withdrawn and to examine and prosecute the embodiment of FIG. 3 and claims 5-7 in conjunction with the provisionally elected FIG. 2 and claims 1-4 and 8-12.

It is respectfully submitted that the present application is a national stage application of PCT/EP2003/03671, and so the previous PCT examination procedure, which failed to raise any objection as to any alleged lack of unity of invention, controls the present examination of claims 1-12 of the present national stage application.

Once the unity of invention of an international PCT application has been acknowledged by WIPO through the PCT examination procedures, it is respectfully submitted that such unity of invention should no longer be challenged by the various elected States, including the United States, during Chapter II proceedings.

In addition, it is respectfully submitted that the alleged lack of unity of invention is incomprehensible, since the invention is clearly based on the presence of a tap as illustrated in both of FIGS. 2 and 3.

The only difference between the tap as illustrated in FIG. 2 and the tap as illustrated in FIG. 3 is that the tap extremity can be fixed, as in FIG. 2, or free to move up and down and so is capable of acting on a needle valve for the automatic entry of the gas into the bottle, as in FIG. 3.

Such a difference in the tap in FIGS. 2 and 3 is not patentably distinct, and it is respectfully submitted that such a simple change in the structure of the inventive tap cannot be seen as lacking unity of invention with respect to the basic solution as illustrated by FIG. 2. The difference in the tap between FIGS. 2 and 3 represents a simple particular embodiment of the same device, and simply makes for easier operation and for automating the same operation; that is, the entry of the wine or other substances or gases into the bottle.

In addition, it is respectfully submitted that the embodiment shown in non-elected FIG. 3 and claimed in non-elected claims 5-7 may be readily searched and examined by the examiner, since, as described herein, the embodiment of FIG. 3 is a simple and obvious variation of the embodiment of FIG. 2, in which the tap is essentially the same in both embodiments, with the tap in FIG. 2 being fixed while the tap in FIG. 3 is movable.

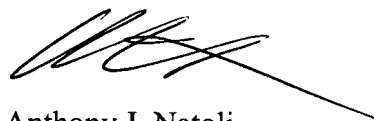
Such a simple variation in the tap between FIGS. 2 and 3 would likely be deemed by the examiner as patentably obvious even though the examiner currently views the inventions of FIGS. 2 and 3 and of claims 4 and 5-7, respectively, to be independent of each other and meriting restriction.

Accordingly, the examiner is requested to reconsider and withdraw the objection of the species of FIGS. 2 and 3 and of claims 4 and 5-7, and so to reconsider and withdraw the restriction.

Entry and approval of the present amendment and election, withdrawal of the restriction, and allowance of all pending claims are respectfully requested.

In case of any deficiencies in fees by the filing of the present amendment and election, the Commissioner is hereby authorized to charge such deficiencies in fees to Deposit Account Number 01-0035.

Respectfully submitted,



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